

UNITED STATES DISTRICT COURT

for the

Western District of Washington

NOV 07 2018

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)USB flash drive device, currently in the possession of the
Seattle FBICase No. **MJ18-520**

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A, which is incorporated herein by reference.

located in the Western District of Washington, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, which is incorporated herein by reference

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☒ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section

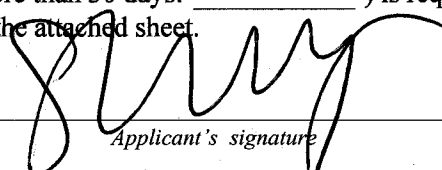
Offense Description

18 U.S.C. 115(a)(1)(B) Threat to Federal Employee
and (b)(4)

The application is based on these facts:

Affidavit of FBI Special Agent Shawna McCann

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Applicant's signature

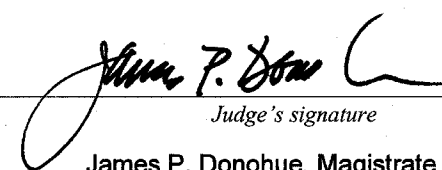
Shawna McCann, FBI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 7 Nov 2018

City and state: Seattle, WA



Judge's signature

James P. Donohue, Magistrate Judge

Printed name and title

STATE OF WASHINGTON)
COUNTY OF KING) SS

AFFILIANT BACKGROUND

5. As set forth below, Smith was arrested for threatening his Probation Officer, in violation of Title 18, United States Code, Section 18 U.S.C. § 115(a)(1)(B) and (b)(4). Specifically, Smith told his case manager at the Federal Detention Center at SeaTac (“FDC-SeaTac”) that he would kill his Probation Officer. The crime with which

1 Smith is charged requires proof of a "true threat," that is a subjective intent to threaten.
2 In the leadup to Smith's statements, he had been searching the internet about guns and
3 explosives, in violation of the terms of his supervision and halfway house rules. These
4 searches are evidence of Smith's subjective intent, making it more likely that he intended
5 to threaten his Probation Officer, rather than making the statement, for example, as a
6 joke.

7 SUMMARY OF INVESTIGATION

8 **A. The Felon in Possession of Ammunition Case**

9 6. On December 22, 2017, employees of Wade's Eastside Guns, a retail gun
10 store and Federal Firearms Licensee (FFL) in Bellevue, Washington, contacted ATF
11 about a suspicious interaction with a customer that took place on December 21, 2017. An
12 employee at the store reported that a man had asked to purchase a part for a Glock pistol
13 commonly called a "Glock switch" or "auto sear." The man said that it was a part that
14 would replace the back plate on the Glock and allow for automatic fire. The employee
15 told the man that what he was asking for was illegal and would result in a prison
16 sentence.

17 7. After asking about the Glock switch, the man asked about purchasing an
18 adapter to mount a silencer to a CZ Evo Scorpion, which likely refers to a 9x19mm pistol
19 or carbine manufactured by Ceska Zbrojovka. The man told the store employees that he
20 had an "Otoscope" silencer and needed to mount it to the barrel of the firearm. At the
21 time, the employees did not understand what the suspect meant by "otoscope" and
22 attempted to find the adapter the suspect wanted but were unable to do so. (An otoscope
23 is a tool used by physicians to examine a patient's eyes, ears, nose etc. They are typically
24 made out of a metal cylindrical handle with threaded ends to attach the viewing portion
25 of the tool. They also typically come with funnel shaped attachments.)

26 8. When the clerks could not find the part the man wanted, he purchased one
27 box of Fiocchi 9x19mm ammunition. During the purchase, the man asked the clerks if
28 they had ever "boiled ammunition in neoprene oil." They were confused by this

1 comment and were not aware of any such practice. The man then left the store. An
2 employee handled the sale and indicated that the suspect paid with a credit card.

3 9. At approximately 2:30 p.m. the same man returned to the store wearing a
4 different outfit. He approached an employee, opened a black case, and showed the
5 employee an otoscope with a silver colored cylindrical handle. Also in the case was a
6 roll of cash. The man told the employee that this was the device he wanted to mount to
7 his firearm. The employee asked the man if he had a tax stamp for the device (as would
8 be required under federal law if it was modified into a silencer.) The man said he did not.
9 At that point, the employee told the suspect that what he was asking for was illegal and
10 ordered him to leave the store. The man left, but as he was leaving yelled at the
11 employee something to the effect of, "do you even know how to operate machinery."

12 10. The man who was in the store purchased the ammunition using a Visa debit
13 card in the name of "Antonio P. Smith." The signature on the receipt read, "Antonio
14 Smith." The man in the store matched the Department of Licensing photograph for
15 Antonio Smith. Smith has a 2003 juvenile felony conviction for burglary in the second
16 degree, and therefore could not lawfully possess any ammunition.

17 11. On December 27, 2017, ATF agents executed a search warrant at Smith's
18 residence and a search warrant on his person. No firearms or ammunition were recovered
19 from Smith's person. As for his residence, agents located a full box of 100 .22 caliber
20 rounds of ammunition and a full box of 50 Fiocchi 9x19mm rounds of ammunition. The
21 Fiocchi box matched the box that was purchased from Wade's Eastside Guns on
22 December 21, 2017.

23 12. Agents also located in Smith's room numerous photos of firearms that
24 appeared to have been cut out of magazines as well as notebooks containing handwritten
25 information about silencers and firearms accessories. Additionally, agents located a
26 DVD titled "Glock Disassembly and Reassembly."

27 13. On January 5, 2018, Smith was arrested. He ultimately pleaded guilty to
28 being a felon in possession of ammunition. On May 11, 2018, the Court sentenced Smith

1 to time served and three years of supervised release. The terms of supervision include
2 mental health treatment requirements, a reasonable search condition, and placement at a
3 halfway house.

4 14. On May 21, 2018, Smith was released from custody to a Bellevue halfway
5 house. On May 27, 2018, halfway house staff caught Smith looking up information on
6 guns on his computer multiple times. On May 28, 2018, he was observed looking up
7 vehicle armor. On that same day, he was observed creating posters of plastic explosives
8 and other weapons on the computer. He had to be asked multiple times to shut off the
9 computer, and had saved the material to his USB device. On the following day, he was
10 observed looking up radio and phone jammers. On June 1, he was seen looking up lock-
11 picking kits and laser cutters. Smith's Probation officer has advised me that Smith
12 generally saved his research on the halfway house computers on a USB flash drive
13 device.

14 15. On July 10, 2018, Smith was terminated from the halfway house. He was
15 taken into custody, and on September 6, 2018, sentenced to time served and 24 months of
16 supervised release for failing to satisfactorily reside in the residential reentry center.

17 **B. Smith's Threat to Murder His Probation Officer**

18 16. Smith's release from custody was delayed until arrangements could be
19 made at a residential reentry center. On September 12, 2018, Smith met with his FDC-
20 SeaTac Case Manager Victoria Carnahan to review his release plan. According to
21 Carnahan, she reviewed with Smith that he was going to report to a particular Probation
22 Officer, D.S., for his three-year term of supervised release. Smith initially refused to sign
23 paperwork regarding his release plan, and said:

24 Smith: "I am going to have this guy [*i.e.*, D.S.] on me for three years?"

25 Carnahan: "Yes. He will control your supervision and you will have to
26 report to him when he requires it."

27 Smith: "I'll kill him."
28

1 Smith then signed the paperwork, and while pointing to a reference to the three-year
2 term, said:

3 Smith: "How do I cut this guy off?"

4 Carnahan: "Cut who off?"

5 Smith threw the pen down and walked away. Smith later claimed to officers that his
6 threatening statements were misunderstood.¹

7 **C. Smith's Return to a Halfway House**

8 17. After the incident described above, Smith was placed at a Seattle halfway
9 house on or about September 17, 2018. According to the staff at the facility, Smith
10 continued to look up items relating to firearms, silencers, knives, and other weapons
11 systems. A staff member said Smith saved materials related to these searches on a USB
12 flash drive, which the staff member described as being black in color.

13 18. Smith was arrested by complaint on September 29, 2018 for the threat to
14 his Probation Officer.

15 **D. The Flash Drive To Be Searched**

16 19. On November 5, 2018, I contacted Smith's aunt, Laura Dodd, and was
17 advised that Dodd was storing Smith's personal belongings while Smith was at FDC-
18 SeaTac. Dodd dropped Smith's belongings off at the Seattle halfway house around
19 September 17, 2018 when Smith was released from FDC-SeaTac to the Seattle halfway
20 house. Dodd stated she had not yet collected Smith's personal belongings from the
21 Seattle halfway house since Smith's arrest on September 29, 2018.² Dodd did not recall
22
23
24

25 ¹ After the statement, Carnahan said to U.S. Probation: "I do not know if his threat holds anything to it or if he just
26 does not care but we felt it was best to notify you." A probation officer responded, "This could be just part of what
Antonio does, as you well know, but of course we want to ensure we take precautions."

27 ² On November 5, 2018, the Seattle halfway house staff advised me that they still have Smith's personal belongings
28 from Smith's time at the halfway house prior to his arrest on September 29, 2018. On November 6, 2018, the
Seattle halfway house staff advised me that they were unable to find Smith's USB drive among Smith's personal
property stored at the facility.

1 seeing a USB flash drive among Smith's personal belongings. Dodd said she would
2 check with her husband, Bill Dodd.

3 20. Later on November 5, 2018, Bill Dodd contacted me and advised that he
4 and Laura Dodd recently had received a box in the mail from FDC-SeaTac containing the
5 personal belongings that Smith had on his person when Smith was arrested at the Seattle
6 halfway house and booked into FDC-SeaTac on September 29, 2018, including Smith's
7 wallet and clothing. Bill Dodd informed me this box contained Smith's USB flash drive,
8 which was black and red in color. Bill Dodd said he believed the USB flash drive was
9 Smith's.³

10 21. Probation Officer Spencer confirmed that Smith's USB flash drive, used by
11 Smith to save his research on firearms and other weapons systems, was black in color
12 with a red ejector button for the USB port.

13 22. On November 6, 2018, I visited Bill and Laura Dodd's house in Fall City,
14 WA and took possession of Smith's USB flash drive from Bill Dodd, which Mr. Dodd
15 voluntarily provided to me. I took possession of the drive, but did not search or access it,
16 to preserve its availability for this search warrant.

17 **E. Smith's Prior History of Mental Illness and Threats**

18 23. In March 2017, one of Smith's roommates called the police to say that
19 Smith had said he was going to the store to buy a sharp knife to cut himself. The police
20 confronted Smith, and took him to a mental health facility after he expressed concern that
21 the wavelengths from the police radios were causing him harm.

22 24. In December 2016, the Bellevue Police Department involuntarily
23 transported Smith to a mental healthcare facility. One of Smith's roommates had grown
24
25

26 ³ The FDC-SeaTac personal property inventory card contains Smith's signature authorizing and directing FDC-
27 SeaTac personnel to mail his personal belongings that were collected during booking and intake on September 29,
28 2018 following Smith's arrest at the Seattle halfway house, to his aunt, Laura Dodd. The FDC-SeaTac personal
property inventory card does not list any USB flash drive, but does not detail the items that were located in his
wallet. Thus, it is possible that the USB flash drive was located there.

1 concerned after Smith had spoken about visiting a corpse, as well as talking about skulls
2 and the "body of a goat." Smith also spoke repeatedly about "government databases."

3 25. In January 2015, a person called to say that Smith's mental health had been
4 deteriorating, that he had not been taking his medication, and that he had a fascination
5 with firearms, which had been growing worse. Smith reportedly had made comments
6 about looking to get a gun to shoot someone.

7 26. In July 2014, according to police reports, Smith went into a Radio Shack
8 store and began talking about guns and bombs. Smith refused to leave when the
9 management asked him to and used his hands to simulate a pistol. When contacted by
10 police, they noticed he was carrying an empty binder with pictures of guns on it.

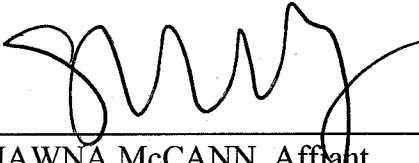
11 27. In 2009, Smith was arrested for domestic violence. Officers searched
12 Smith's belongings and located a bb pistol with some type of silencer or simulated
13 silencer attached to it. Smith also behaved erratically during his contact with officers.

14 28. Smith has been hospitalized for mental illness numerous times, including as
15 recently as 2014.


16 29. Finally, a family member of Smith reported that Smith has had a long term
17 obsession with firearms and has always wanted to own one.

CONCLUSION

30. Based on the forgoing, I submit that there is probable cause to believe that the USB flash drive described in Attachment A contains evidence of the crime of threatening a federal officer, and I seek authorization to seize the items described in Attachment B.


SHAWNA McCANN, Affiant
Special Agent, FBI

SUBSCRIBED AND SWORN before me this 7th day of November, 2018.


JAMES P. DONOHUE
United States Magistrate Judge

ATTACHMENT A
Item To Be Searched

The item to be searched is a USB flash drive device, currently in the possession of the Seattle FBI, and retrieved from the residence of Laura and Bill Dodd in Fall City, Washington.

Attachment B

List of Items to be Searched for and Seized

This warrant authorizes the government to search for the following items:

Evidence and/or fruits of the commission of the following crime: Threatening a Federal Employee, in violation of 18 U.S.C. § 115(a)(1)(B) and (b)(4), *i.e.*,

- a. All photographs of firearms, weapons, weapons systems, and explosives
- b. All articles or other materials describing firearms, weapons, weapons systems, and explosives
- c. All materials referencing Probation Officer Darryl Spencer